

MEMORIAL

OF

CADWALLADER WALLACE,

PRAYING

Compensation for certain Virginia military bounty land warrants, the lands appropriated for which have been sold by the United States.

JANUARY 13, 1846.

Referred to the Committee on Public Lands, and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled, at their present session, commencing on the first Monday of December, 1845.

Your memorialist, Cadwallader Wallace, of the State of Ohio, respectfully represents to your honorable body, that he again submits his application for the remuneration and satisfaction of his claim to certain lands lying and being in the State of Ohio, within the Virginia military reservation, between the lines of Ludlow and Roberts, entered and surveyed in his favor, as assignee, founded on sundry Virginia military bounty land warrants issued for services rendered in the revolutionary war, in the Virginia line upon continental establishment, in entry Nos. 14,147 and 14,169, for 141,162 $\frac{1}{2}$ acres.

The warrants upon which this survey is founded amount, in the aggregate, to the above mentioned quantity; all of which have been regularly assigned to him, with the exception of 60 acres, which were assigned to Joseph S. Watkins, and located as above indicated, on lands to the full quantity of said warrants.

By adverting to the accompanying documents, and sundry reports and acts of Congress, and decisions of the supreme courts of the State of Ohio and of the United States, to which you are respectfully referred, the justice and legal merits of this claim will more fully and at large appear, and to which you will be more particularly referred hereafter, in an argument to be submitted by counsel.

But to enable your honorable body to understand the nature and merits of said claim, and to arrive at the truth with greater facility, your memorialist deems it proper to give a succinct statement of the facts and circumstances connected therewith, and upon which the same claim is predicated.

Prior to the revolution, and after its successful termination, Virginia being possessed, in her own right, of an immense territory, not only by con-

quest by her own troops upon her own State establishment, under the command of Gen. George Rogers Clarke, but also by and under a charter of James I., King of England, and in common with her sister colonies, being ardent and zealous in the cause of freedom, by sundry acts of her legislature promised bounty lands to the officers and soldiers of her several lines—as well those upon continental establishment as those upon her own State establishment, including her navy.

To satisfy these bounty land claims, Virginia set apart, in 1783, a large district of land in the then Territory of Kentucky, where many locations were afterwards made and patented by her prior to her deed of cession of the Northwestern Territory to the United States, and prior to said Territory of Kentucky being admitted into the Union as an independent State, by compact with Virginia, &c.

But the locations of these warrants being interrupted by hostile Indians, and there not being a sufficient quantity of land in the district assigned to the continental line, by reason of the North Carolina line bearing further in upon these lands than was anticipated, the greater part of them remained unlocated at the time of said deed of cession. It was, therefore, deemed necessary and proper by Virginia, to reserve a district in her said Northwestern Territory, sufficient to satisfy, *in good lands*, all the bounty land claims of her troops upon that establishment; which was accordingly done, or meant or intended to be done, among other things in said deed of cession, in pursuance of sundry acts of the Virginia legislature. The reservations and provisions in said cession are in the following words, to wit:

1st. That the necessary and reasonable expenses incurred by said State *in subduing any British posts, or in maintaining forts and garrisons within, or for the defence or in acquiring any part of the Territory so ceded or relinquished, shall be fully reimbursed by the United States, &c.*

2d. That the French and Canadian inhabitants, and other settlers of the Kaskaskias, St. Vincent's, and the neighboring villages, *who have professed themselves citizens of Virginia*, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties, &c.

3d. That a quantity not exceeding one hundred and fifty thousand acres of land, promised by said State, shall be allowed and granted to the then Colonel, now Gen. George Rogers Clarke, and to the officers and soldiers of his regiment, who marched with him when the posts of Kaskaskia and St. Vincent's were reduced, &c.

4th. That in case the *quantity of good land* on the southwest side of the Ohio, upon the waters of the Cumberland river, and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops upon continental establishment, should, from the North Carolina line bearing further in upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to said troops *in good lands*, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia, &c.

Although your memorialist is only interested in one of the reservations above mentioned in said deed of cession, yet he recites others, as they may tend to illustrate the merits of his claim to a part of that one in which he claims to be interested, to wit, that one lying between said rivers Scioto and Little Miami.

The whole of the territory between these rivers was reserved in case it should become necessary to satisfy the bounty land claims of the said officers and soldiers of the Virginia troops upon the continental establishment. The State line troops had no right to locate their warrants in this reservation, nor had the troops under Gen. Clarke any such right—they belonging to the State line, and not to the continental—provisions and reservations having been made for them in other quarters.

The principal questions that naturally arise under this state of the case, are: 1st. Are the location and survey made within said reservation? 2d. Is the whole of said reservation necessary to satisfy said bounty land claims of the continental line? 3d. Are the warrants upon which said survey is founded issued for military services performed in the said Virginia line upon continental establishment, according to the laws of Virginia prior to said deed of cession? And if so: 4th. What mode will Congress adopt and pursue in order to satisfy this claim, and quiet the titles of those now in possession of the lands covered by this survey of your memorialist, under grants from the United States as public lands, &c.

As these questions will be more fully discussed and illustrated in an argument to be submitted to the committee to which the claim of your memorialist may be referred, a few additional suggestions and references will only be made, for the more immediate convenience of your honorable body and the action of said committee, before the argument is submitted.

In regard to the first proposition, or question, which relates to the said location being within said reservation, I have only to refer your honorable body to the accompanying documents, including sundry surveys and field notes of surveyors, (one of whom is the principal surveyor of said district,) verified by affidavits of the most unquestionable character, establishing the fact that said location and survey are within the said Virginia military reservation, according to the terms of the said Virginia deed of cession, as established by said decisions of the Supreme Courts of the United States and of Ohio.

In order to establish the second proposition, it is only necessary to advert to the certificate of the principal surveyor of said district, and his deputies, and to sundry letters of the Commissioner of the General Land Office, and other papers and affidavits, which clearly show that the whole of said reservation is absolutely necessary to satisfy said claims, leaving a large deficiency, &c.

The third proposition is established by the warrants themselves, which show that they were issued by the constituted authorities of Virginia for military services performed in her line upon continental establishment. The assignments of the different original claimants, or warrantees, also appear on the backs of said warrants to your memorialist. In addition to these things, there is a statement of the Commissioner of the General Land Office in relation to the legality of these warrants and assignments.

The only proposition in which is involved any doubt or difficulty is the fourth one, which relates to the mode or course which your honorable body may think proper to adopt and pursue in order to satisfy this claim, &c.

On this point your memorialist would suggest, that he waives his right (in case his proposition is agreed to) of being compensated according to the value of the land in a state of nature, as was done in the cases of Doddridge, McArthur, and others. Notwithstanding, he conceives he has equal claims, (at least in equity,) as they are perfectly analogous cases—all lying

and being south of the Greenville treaty line, all between Ludlow's and Roberts's lines, and all within the clearly defined limits of said reservation. Yet, the lands at this day are so immensely valuable, (on parts of which many towns and villages are erected, including Bellefontaine, the county seat of Logan,) that the amount would be so great that it would seem unreasonable for an individual to ask it, or for Congress to grant it, notwithstanding the cases and precedents above mentioned would fully justify it.

Your memorialist, therefore, proposes to give to the general government the profit and advantage of said location, and accept the sum actually received by the government for these lands, according to the report of the honorable Samson Mason, from the Committee on Public Lands, on the 20th of May, 1840, founded on the estimates of the Commissioner of the General Land Office, and then release to the government all his interest in said survey, and the warrants upon which the same is founded, and thus put an end to all difficulty in regard to this matter, as well as quiet the titles of those now claiming, as before mentioned, under patents illegally issued by the general government as public lands.

This proposition, if accepted, would give to the government not only the benefit and advantage of the value of the land in a state of nature, as in the cases mentioned, but also the benefit of the use and interest of the money from the times of the sales, which took place between the years 1810 and 1832, as appears from the report of the Commissioner of the General Land Office; the greater part having been sold after it was *well known and established*, by the running of *Roberts's said line*, and by the *judicial decisions* before referred to, *that the lands thus sold were within the clearly defined and established boundary of the said reservations, according to the terms of the said Virginia military reservation, and the whole thereof would be absolutely necessary to satisfy these Virginia bounty land claims.*

This proposition would also give the government the advantage of settling forever all difficulty in regard to this reservation and boundary line in one case alone, as the whole of the residue of said land, between said lines of Ludlow and Roberts, is included within said survey, instead of satisfying the same and adjusting the difficulty in many individual claims, as was done in the cases before referred to, which would cost the government several hundred thousand dollars more than your memorialist proposes to take in full satisfaction of the same—which he is even willing to take in such land scrip as may be receivable in payment for public lands at any of the land offices in any of the States or Territories, if this should be deemed any further advantage or convenience to the government.

Your memorialist therefore prays that your honorable body would take his case under full and mature consideration, and grant him such relief in the premises as may appear just, reasonable, and equitable; and your memorialist, as in duty bound, will ever pray, &c.

CADWALLADER WALLACE,

By WILLIAM A. BRADLEY, his agent.

D. F. HEATON, *Att'y.*